

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

OKLAHOMA FIREFIGHTERS PENSION AND  
RETIREMENT SYSTEM,

Plaintiff,

v.

MUSK,

Defendants.

No. 1:22-cv-03026-ALC-GWG

**JOINT STIPULATION AND  
[PROPOSED] ORDER REGARDING  
PLAINTIFF’S AMENDED  
COMPLAINT AND DEFENDANTS’  
RESPONSE THERETO**

**JOINT STIPULATION AND [PROPOSED] ORDER  
REGARDING PLAINTIFF’S AMENDED COMPLAINT  
AND DEFENDANTS’ RESPONSE THERETO**

Lead Plaintiff Oklahoma Firefighters Pension and Retirement System (“Plaintiff”) and Defendants Elon R. Musk and the Elon Musk Revocable Trust dated July 22, 2003 (“Existing Defendants”), Jared Birchall, and Excession LLC (“Newly Added Defendants” and, together with the Existing Defendants, “Defendants”) by and through their undersigned counsel of record, hereby stipulate and agree as follows:

**WHEREAS**, on September 29, 2023, this Court entered its decision sustaining Plaintiff’s complaint against the Existing Defendants, *see* ECF No. 49;

**WHEREAS**, on October 19, 2023, Magistrate Judge Gorenstein entered a scheduling order, which had been agreed by the Existing Defendants and Plaintiff, that, among other things, set April 30, 2024 as the deadline for amendment of pleadings and joinder of parties, *see* ECF No. 57 (the “Scheduling Order”);

**WHEREAS**, the Parties commenced discovery and the Existing Defendants and third parties have produced thousands of documents;

**WHEREAS**, pursuant to the agreed and Court-ordered Scheduling Order, to take into account certain facts learned from discovery to date, and to conform the pleadings to the Court's October 2, 2024 order, Plaintiff intends to file a First Amended Complaint (the "FAC"), including the Existing Defendants and the Newly-Added Defendants, on or before April 30, 2024;

**WHEREAS**, Defendants have reviewed a draft of the FAC and do not oppose amendment, while reserving all rights to seek dismissal;

**WHEREAS**, counsel for Defendants has agreed to accept service of the FAC on behalf of all Defendants, including the Newly-Added Defendants; and

**WHEREAS**, the Parties have conferred and agreed on a proposed schedule for Defendants to respond to the FAC.

**THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned counsel for Plaintiff and the undersigned counsel for all Defendants that:

1. Plaintiff will file the FAC on or before April 30 pursuant to the Scheduling Order.
2. Defendants do not oppose amendment, but reserve all rights to seek dismissal of the FAC.
3. Within two weeks of Plaintiff filing the FAC, Defendants will either file an Answer to the FAC or, pursuant to Rule 2.A. of the Court's Individual Practices, will file a letter requesting a pre-motion conference regarding a proposed motion to dismiss the FAC.
4. If any Defendant files a letter requesting a pre-motion conference, Plaintiff will file its response within 3 business days.
5. Subject to the Court's review and approval, Defendants respectfully propose that, if the Court grants any Defendant leave to file a motion to dismiss, (i) the motion be due 45 calendar days after the date on which the Court grants leave; (ii) Plaintiff's opposition to the motion

to dismiss be due 45 calendar days after Defendants file the motion to dismiss; and (iii) Defendants' reply in support of the motion to dismiss be due 30 calendar days after Plaintiff files its opposition.

6. Plaintiff does not oppose this proposed schedule.

Pursuant to the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(a)(3)(A), all discovery is stayed pending resolution of Defendants' anticipated motion to dismiss the FAC.

7. All electronic signatures ("/s/") are signed with consent of counsel pursuant to Rule 8.5 of this Court's Electronic Case Filing Rules and Instructions updated as of November 1, 2022.

**IT IS SO STIPULATED.**

Dated: April 25, 2024

**BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP**

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*Counsel for Defendants, Including The Newly  
Added Defendants*

Dated: \_\_\_\_\_, 2024

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HON. GABRIEL W. GORENSTEIN  
UNITED STATES MAGISTRATE JUDGE